

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/17/05

A Bill

HOUSE BILL 2573

5 By: Representative Borhauer
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7

For An Act To Be Entitled

9 AN ACT TO PROVIDE AN ALTERNATIVE METHOD OF
10 INCORPORATION AS A CITY OR TOWN; AND FOR OTHER
11 PURPOSES.
12

Subtitle

14 TO PROVIDE AN ALTERNATIVE METHOD OF
15 INCORPORATION AS A CITY OR TOWN.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code Title 14, Chapter 38, Subchapter 1 is amended
21 to add an additional section to read as follows:

22 14-38-115. Alternative method of incorporation - Petition and
23 election.

24 (a)(1) In addition to the procedures for incorporating a city or town
25 under §§ 14-38-101 through 14-38-108, the inhabitants of a part of any county
26 not embraced within the limits of any city or incorporated town may apply to
27 the county judge of the proper county to call for an election on the issue of
28 incorporating a city or town and for electing municipal officials if the
29 following conditions are met:

30 (A) The territory proposed to be incorporated has at least
31 four thousand (4,000) inhabitants according to the most recent federal
32 decennial census; and

33 (B) The county judge is presented a written petition that:
34 (i) Meets the requirements of subdivision (a)(2) of
35 this section; and

36 (ii) Is signed by at least twenty-five percent (25%)



1 of the qualified voters who reside in the territory proposed to be
2 incorporated.

3 (2) The petition shall:

4 (A) Describe the territory proposed to be embraced in the
5 incorporated city or town and have attached to it an accurate map or plat of
6 the territory;

7 (B) State the name proposed for the incorporated city or
8 town; and

9 (C) Name the persons authorized to act in behalf of the
10 petitioners in prosecuting the petition.

11 (b) The county judge shall not approve a petition for incorporation of
12 any city or town if any portion of the territory proposed to be incorporated
13 is ineligible under the criteria in § 14-38-101(b).

14 (c) If a petition for incorporation is presented to the county judge,
15 it shall be filed in the office of the county clerk, to be kept there,
16 subject to the inspection of any persons interested, until the time appointed
17 for a public hearing on the petition.

18 (d)(1) Upon the filing of a petition for incorporation, the county
19 judge shall set the time for a public hearing on the petition and shall
20 communicate to the petitioners, or their agent, a time and place for the
21 hearing, that shall not be less than thirty (30) days after the filing of the
22 petition.

23 (2)(A) The petitioners or their agent shall publish a notice in
24 some newspaper of general circulation in the county for not less than three
25 (3) consecutive weeks.

26 (B) The notice shall contain the substance of the petition
27 and state the time and place set for the public hearing.

28 (e) The county judge shall hold the public hearing at the time and
29 place determined and the procedure for a hearing set forth in § 14-38-103
30 shall be followed in the proceedings concerned in this section to the extent
31 applicable.

32 (f)(1) After the hearing, if the county judge is satisfied that the
33 procedures for filing the petition for incorporation were followed, that the
34 requirements for signatures under subsection (a) of this section have been
35 complied with, that the limits of the territory to be incorporated have been
36 accurately described and an accurate map was made and filed, and if the

1 prayer of the petitioner is right and proper, then the county judge shall
2 enter an order that:

3 (A) Grants the petition to hold an election on the date of
4 the next general election; and

5 (B) Sets the date of the election on the issue of
6 incorporating the city or town and electing officers as the date of the next
7 general election.

8 (2) The order shall be recorded by the clerk of the county.

9 (g)(1)(A) If the county judge orders an election on the issue of
10 incorporation, the county clerk shall notify the county election commission
11 at least sixty (60) days before the election that the issue of incorporation
12 shall also appear on the election ballot for a proposed city or incorporated
13 town.

14 (B)(i) No later than forty-five (45) days prior to the
15 election, the county clerk shall identify all persons who reside within the
16 territory proposed to be incorporated, and the county clerk shall determine
17 the names and addresses of all qualified electors residing within that
18 territory.

19 (ii) The failure to identify all persons residing
20 within the territory proposed to be incorporated or the failure to determine
21 the names and addresses of all qualified electors residing within that
22 territory shall not invalidate or otherwise affect the results of the
23 election.

24 (C) All of the qualified electors residing within the territory
25 to be incorporated shall be entitled to vote on the issue of incorporation.

26 (D) The county clerk shall give notice of the election by
27 publication by at least one (1) insertion in some newspaper having a general
28 circulation in the county.

29 (2)(A) The county clerk shall prepare a list by precinct of all
30 those qualified electors residing within the territory to be incorporated who
31 are qualified to vote in that precinct and furnish that list to the election
32 officials.

33 (B) The county clerk shall give notice of the voter
34 registration deadlines at last forty (40) days before the election by
35 ordinary mail to those persons whose names and addresses are on the list.

36 (3) The election on the issue of incorporation shall be held in

1 accordance with the procedures established for other municipal elections and
2 the ballot for the election shall be printed substantially as follows:

3 "[] FOR THE INCORPORATION OF THE CITY (OR TOWN) OF (NAME OF
4 PROPOSED CITY OR INCORPORATED TOWN), ARKANSAS.

5 [] AGAINST THE INCORPORATION OF THE CITY (OR TOWN) OF (NAME OF
6 PROPOSED CITY OR INCORPORATED TOWN), ARKANSAS."

7 (4) The county clerk shall, no later than seven (7) days
8 following the election, certify the election results, record the same in the
9 county records, and file a certified copy with the county judge.

10 (h)(1)(A) If a majority of the qualified electors voting on the issue
11 of incorporation in the election vote for the issue, then the county clerk
12 shall, no later than seven (7) days following the election, certify the
13 election results, record the same in the county records, and file a certified
14 copy with the Secretary of State.

15 (B) Upon the county clerk's filing of the election
16 results, the county judge shall approve the petition of incorporation as
17 ratified by the voters and shall endorse on the petition an order that the
18 city or incorporated town as named and described in the petition is organized
19 and that the petition shall be granted.

20 (C)(i) The order, petition, and the map or plat shall be
21 signed and delivered to the county recorder to record them in the proper
22 records and to file and preserve in his or her office the original papers,
23 having certified on the papers that they have been properly recorded.

24 (ii) It shall also be the duty of the recorder to
25 make out and certify, under his or her official seal, two (2) transcripts of
26 the record. The recorder shall forward one (1) copy to the Secretary of State
27 and deliver one (1) copy to the agent of the petitioners, with a certificate
28 on the transcript that a similar transcript has been forwarded to the
29 Secretary of State.

30 (D) The incorporation shall be effective on the date the
31 order of the county judge is filed and recorded and the election of municipal
32 officers shall be effective upon that date.

33 (2) If a majority of the qualified electors voting on the issue
34 at the election vote against the issue of incorporation, the incorporation
35 petition is null and void.

36 (i)(1) If an order of the county judge provides for an election on the

1 issue of incorporation, then the election of officers for the proposed city
2 or town is to take place at the same time as the election on the issue of
3 incorporation at the next general election.

4 (2) The county clerk shall notify the county election commission
5 at least sixty (60) days before the election that the election of city or
6 town officers shall also appear on the election ballot along with the issue
7 of incorporation of the proposed city or incorporated town.

8 (3)(A) The county election commission is responsible for holding
9 the first election of officers for the proposed city or town.

10 (B) The type of officers to be elected and qualified and
11 the election itself shall be conducted in the manner prescribed by law in
12 like cases for a city or town of like size or class.

13 (4) If the election is held at any other time than that
14 prescribed by law for the regular election of the officers of the city or
15 town of like size or class, the officers elected shall continue in office as
16 long as and in the same manner as if they had been elected at the preceding
17 period of the regular election of officers of the city or town of same size
18 or class.

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20 /s/ Borhauer
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